

REGULAR MEETING OF THE  
OKLAHOMA WORKERS' COMPENSATION  
COMMISSION

Thursday, June 9, 2016  
1:30 p.m.  
Commission Chambers  
1915 N. Stiles Ave.  
Oklahoma City, Oklahoma  
[www.wcc.ok.gov](http://www.wcc.ok.gov)

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*AGENDA*

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**CALL TO ORDER..... Mr. Gilliland, Chair**

**ROLL CALL ..... Mr. Gilliland, Chair**

**NOTICE OF COMPLIANCE..... Tiffany Pratt**

**MINUTES**

- a. The drafted Minutes of Regular Commission Meeting on May 12, 2016, will be considered for approval.
- b. The drafted Minutes of Special Commission Meeting on May 13, 2016, will be considered for approval.
- c. The drafted Minutes of Special Commission Meeting on May 19, 2016, will be considered for approval.

**THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION.**

**1. Commission Approval of Group Self-Insurance Applications for New Membership**

Commission Rule 810:25-11-3 states a new membership to a self-insurance group may not become effective without Commission approval. All applications for membership are filed with the Commission. The application includes evidence of the execution of the indemnity agreement, power of attorney, and joint and several liability agreement, as required by 810:25-11-15, with signed approval of the applicant by the association, and is accompanied by a current balance sheet and income statement. The following applicant is applying for a membership change to the **Oklahoma Automobile Dealers Self- Insured Association (# 75058):**

Membership Change –  
#92 from Harlan Motor Co. to Harlan Ford, Inc.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, or approving or not approving the application for the membership change.

**2. Commission Approval of Group Self-Insurance Applications for New Membership**

Commission Rule 810:25-11-3 states a new membership to a self-insurance group may not become effective without Commission approval. All applications for membership are filed with the Commission. The application includes evidence of the execution of the indemnity agreement, power of attorney, and joint and several liability agreement, as required by 810:25-11-15, with signed approval of the applicant by the association, and is accompanied by a current balance sheet and income statement. The following applicant is applying for a membership to the **Oklahoma Health Care Association (# 75175):**

Sooner Health Services III, LLC

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, or approving or not approving the application for the membership.

**3. Discussion and Consideration of Distribution of Surplus Monies to Members of the Oklahoma Association of Electric Self-Insurer's Fund**

Oklahoma Association of Electric Self-Insurer's Fund (Group), a group self-insurance association, is requesting a distribution of surplus monies back to its members in the amount of \$204,223 from closed claim years 1987 (\$8,896) and 2006 (\$195,327). The Group had a financial surplus of more than \$9,216,526 for all years combined for the period ending December 31, 2014. Commission Rule 810:25-11-10 states that any surplus monies may be declared refundable by the association's board. The date and manner of the distribution shall be declared by the association's board and shall be in accordance with the association's bylaws. The board shall submit the distribution request to the Commission, with all supporting documents. The Commission will consider approving the distribution of surplus monies to members of the Oklahoma Association of Electric Self-insurers Fund.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, approving or not approving some, all or none of the distribution of the surplus monies to the members of the Oklahoma Association of Electric Self-insurers Fund.

**4. Discussion and Consideration of Reducing the Security Deposit of YRC, Inc./Yellow Transportation, a Former Own Risk Employer**

A security deposit posted with the Commission as required by 810:25-9-4 must remain in place, at its existing amount, for two years after an individual own risk employer voluntarily leaves self-insurance. A security deposit may be reduced at the Commission's discretion after the two year waiting period upon application by the employer and submission of current financial statements and workers' compensation loss runs.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, reducing or not reducing the security deposit of YRC, Inc./Yellow Transportation.

**5. Discussion and Consideration of Reducing the Security Deposit of BOK Financial, N.A., a Former Own Risk Employer**

A security deposit posted with the Commission as required by 810:25-9-4 must remain in place, at its existing amount, for two years after an individual own risk employer voluntarily leaves self-insurance. A security deposit may be reduced at the Commission's discretion after the two year waiting period upon application by the employer and submission of current financial statements and workers' compensation loss runs.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, reducing or not reducing the security deposit of BOK Financial, N.A.

**6. Discussion and Determination of Account Balances of the Oklahoma Option Insured Guaranty Fund and the Oklahoma Option Self-insured Guaranty Fund**

- a. Until the Insured Guaranty Fund under the Oklahoma Option contains Two Million Dollars (\$2,000,000.00) or if the amount in the fund falls below One Million Dollars (\$1,000,000.00), each insurer shall be assessed. If the account balance prompts an assessment to be issued for the Option Insured Guaranty Fund, it shall be paid to the Insured Guaranty Fund, care of the Commission. Each insurer shall be assessed two percent (2%) of all gross direct premiums

written during each quarter of the calendar year for insurance covering a benefit plan under this act after deducting from such gross direct premiums, return premiums, unabsorbed portions of any deposit premiums, policy dividends, safety refunds, savings and other similar returns paid or credited to policyholders.

- b. Until the Self-insured Guaranty Fund under the Oklahoma Option contains One Million Dollars (\$1,000,000.00) or if the amount in the fund falls below Seven Hundred Fifty Thousand Dollars (\$750,000.00), each self-insurer shall be assessed. If the account balance prompts an assessment to be issued for the Option Self-insured Guaranty Fund, it shall be paid to the Self-insured Guaranty Fund, care of the Commission. Each self-insurer shall be assessed a fee at the rate of one percent (1%) of the total compensation for permanent partial disability awards paid out during each quarter of the calendar year by the employers.

Stormy Moore, Director, Insurance Services, will present the account balances of each of the Option Guaranty Funds to the Commission.

**Possible Action:**

- a. Option Insured Guaranty Fund- Possible action may include, but is not limited to: taking no action; continuing the matter; determining the balance is below the statutory amount requiring an assessment; or determining the balance is above the statutory amount not requiring an assessment.
- b. Option Self-insured Guaranty Fund- Possible action may include, but is not limited to: taking no action; continuing the matter; determining the balance is below the statutory amount requiring an assessment; or determining the balance is above the statutory amount not requiring an assessment.

**7. Discussion and Consideration of Approval of Annual Report**

Pursuant to 85A O.S. § 101(A), on or before the first day of July each year, the Commission shall prepare, make public and submit a report for the prior calendar year to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and each member of the Legislature, containing a statement of the number of awards made and the causes of the accidents leading to the injuries for which the awards were made, total work load data of the administrative law judges, including a detailed report of the work load and judgments written by each judge, a detailed statement of the expenses of the Commission, together with any other matter which the Commission deems proper to report. The Commission will discuss and consider approval of the 2015 Annual Report as presented at the meeting.

**Possible Action:**

Possible action may include, but is not limited to: taking no action; continuing the matter; approving, approving as amended or not approving the 2015 Annual Report.

**8. Proposed Approval of Independent Medical Examiners and Case Managers for the Commission**

Title 85A O.S. § 112 requires the Workers' Compensation Commission to create, maintain and review a list of licensed physicians who shall serve as independent medical examiners (IME). Likewise, for case managers, 85A O.S. § 113 requires a list of qualified case managers be developed, maintained and periodically reviewed by the Commission.

The Commission shall, to the best of its ability, include the most experienced and competent physicians in the specific fields of expertise utilized most often in the treatment of injured workers. The period of qualification shall be two (2) years. The Commission will consider approving the list of physicians and case managers presented at the meeting that have been vetted by the Medical Director and recommended to have their applications approved or renewed.

**Possible Action:**

Possible action may include, but is not limited to: taking no action, continuing the matter, approving some, all or none of the independent medical examiners and case managers for the Commission.

**9. Personnel Policies**

The Commission will discuss and consider approving the following agency policy, as amended: 1) Family Leave and Medical Act Policy.

**Possible Action:**

Possible action may include, but is not limited to: taking no action; continuing the matter; approving; approving as modified at the meeting; or not approving the policy.

**10. Consent Agenda for Travel Vouchers Currently Outstanding**

85A O.S. §23 states any commissioner or employee of the Commission shall be entitled to receive his or her necessary traveling expenses as provided in the State Travel Reimbursement Act. The expenses shall be certified by the person who incurred them and shall be allowed and paid on presentation of vouchers approved by the Commission. In accordance with this section, the Commission will consider a vote to approve the currently outstanding vouchers.

All vouchers listed within this Consent Agenda have been made available to each Commissioner prior to today's meeting, are considered routine, and will be enacted by one motion of the Commission. If separate discussion is desired, that item may be removed from the Consent Agenda and separately voted upon.

**Possible Action:**

Possible action may include, but is not limited to: taking no action; approving some, all or none of the vouchers listed in this Consent Agenda; continuing the matter.

**11. Reports**

**THE FOLLOWING REPORTS ARE PRESENTED FOR INFORMATIONAL PURPOSES ONLY. NO ACTION WILL BE TAKEN.**

**Legislative Update Report**

Commissioner Liotta will give a summary report on 2016 legislative session as it related to the Commission.

**12. Possible Executive Session for Confidential Communications Between the Commission and Its Attorneys Concerning Bankruptcy Involving Seventy Seven Energy, and Related Determination Regarding the Bankrupt Status as an Impaired Self-Insured, Pursuant to Title 25 O.S. § 307(B)(4)**

Pursuant to 25 O.S. § 307(B)(4), an Executive Session is proposed for the purpose of conducting confidential communications between the Commission and its attorneys concerning pending bankruptcy involving the Seventy Seven Energy, a self-insured.

The Commission's counsel from the Attorney General's Office has advised that public disclosure of the communications relating to this bankruptcy will seriously impair the ability of the Commission and their counsel to take appropriate action related to the ongoing bankruptcy proceeding and protect the Commission's interest.

**A. Motion and Vote to:**

- (i) Determine That Disclosure Will Seriously Impair the Ability of the Commission to Take Appropriate Action in the Ongoing Bankruptcy Proceeding of Seventy Seven Energy and Protect the Commission's Interest; and
- (ii) Go Into Executive Session for the purposes of Discussing the pending bankruptcy of Seventy Seven Energy under §307(B)(4).

**B. Vote to Reconvene in Open Session**

**Possible Action:**

Possible action may include but is not limited to taking no action; continuing the matter; or instructing Insurance Services Division or counsel to take any necessary action or make any necessary filings in the bankruptcy proceeding; or taking other actions as discussed and recommended by counsel in Executive Session.

**13. Announcements**

Commission's next regular meeting is Thursday, July 14, 2016.

**ADJOURNMENT.....Mr. Gilliland, Chair**